

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

EDWARD ALVARADO, *et al.*,

Plaintiffs,

v.

FEDERAL EXPRESS CORPORATION,

Defendant.

No. C 04-0098 SI, No. C 04-0099 SI, C 09-485 SI

**ORDER GRANTING DEFENDANT'S EX PARTE APPLICATION REGARDING TIMELINESS OF ITS OPPOSITIONS TO FEE PETITIONS AND SETTING NEW HEARING DATE**

Due to a disagreement between defendant and counsel for Mr. McCoy over the application of the Civil Local Rules to the briefing schedule for Mr. McCoy's pending fee petition, defendant has filed an *ex parte* application seeking confirmation from the Court that its oppositions, filed on April 20, 2011, are timely. The Court GRANTS defendant's application and finds that the oppositions, filed 21 days before the May 11, 2011 hearing date, are timely under Civil Local Rule 7-3(a).

The Court finds it quite unfortunate that the parties were required to litigate what should have been a non-issue. It is a waste of time and resources for the parties to collectively file, and the Court to digest, seven separate pleadings (including declarations and exhibits) on a simple scheduling matter. Further, to the extent that any confusion about the briefing schedule has been caused by the series of orders rescheduling the hearings on the McCoy and Parker fee petitions, the Court notes that these orders followed the Court's granting of Mr. McCoy's administrative motion to continue the originally set hearing date in order to enable Mr. McCoy to collect and use additional information in his fee petition.

Counsel for Mr. McCoy asserts that Mr. McCoy will be "severely prejudiced" if the Court accepts defendant's oppositions because, *inter alia*, counsel is busy with other matters and unable to prepare reply briefs in the time allotted under the local rules. Counsel requests that the Court reschedule

1 the hearing to May 20, and allow Mr. McCoy to file his reply papers on May 13. This proposed briefing  
2 schedule is not in accordance with the local rules, which require reply papers to be filed “not less than  
3 14 days before the hearing date.” Civil Local Rule 7-3(c). The Court GRANTS counsel’s request for  
4 an extension of time as follows: reply papers must be filed by **May 13, 2011**, and the hearing on the fee  
5 petitions is scheduled for **May 27, 2011 at 9:00 am**.

6 This order resolves Docket No. 1712.

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8 **IT IS SO ORDERED.**

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10 Dated: April 20, 2011

  
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SUSAN ILLSTON  
United States District Judge